

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAILAN D. SMITH,)	
Petitioner,)	C.A. No. 22-174 Erie
)	
v.)	District Judge Susan Paradise Baxter
)	Chief Magistrate Judge Richard Lanzillo
THE COMMONWEALTH OF)	
PENNSYLVANIA BOARD OF)	
PROBATION & PAROLE,)	
Respondent.)	

MEMORANDUM ORDER

Petitioner Dailan D. Smith, an inmate in the custody of the Pennsylvania Department of Corrections, initiated this action by filing a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, as amended by the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”), challenging the Pennsylvania Board of Probation & Parole’s recalculation of his maximum sentence date following his arrest while on parole. [ECF No. 5]. The petition was referred to Chief United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.


On March 3, 2025, Chief Magistrate Judge Lanzillo issued a Report and Recommendation (“R&R”) recommending that the petition be denied, with prejudice, because the Petitioner’s claim has not been exhausted, is untimely, and is legally frivolous [ECF No. 16]. In particular, Judge Lanzillo found that: (1) Petitioner failed to exhaust the final two levels of appellate review of the Board’s October 9, 2020 decision; (2) the statute of limitations for filing a timely petition for habeas relief under AEDPA expired on November 9, 2021, nearly seven months before Petitioner filed the present action; and (3) Petitioner’s alleged violations of state

law do not fall within the scope of 28 U.S.C. § 2254(a) and, thus, are not cognizable in a federal habeas action. Petitioner has not filed any timely objections to the R&R.

Thus, after *de novo* review of the petition and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 16th day of May, 2025,

IT IS HEREBY ORDERED that the within petition for a writ of habeas corpus is DENIED, with prejudice, and the report and recommendation of Chief Magistrate Judge Lanzillo, issued on March 3, 2025 [ECF No. 16], is adopted as the opinion of this Court. As there are no further matters pending before the Court relative to the instant petition, the Clerk is directed to mark this case “CLOSED.”


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
Chief United States Magistrate Judge

All parties of record